TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 312.

WILLIAM E. HALL, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED FEBRUARY 26, 1897.

(16,500.)

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judge of the circuit court of the United States for the southern district of New York, Greeting:

Because in the record and proceedings, as also in the giving of judgment in a certain indictment which was in the said circuit court, before you, against William R. Hall for violation of section 5467 of the Revised Statutes of the United States, the punishment for which is imprisonment at hard labor for not less than one year nor more than five years, a manifest error hath happened, to the great damage of the said defendant, William R. Hall, as he complains, we, being willing that such error, if any hath been, shall be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 27th day of January, 1897, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to
2 correct that error what of right and according to the law and custom of the United States ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 29th day of December, in the year of our Lord one thousand eight hundred and ninety-six, and of the Independence of the United States the one hundred and twentieth.

[Seal of U. S. Circuit Court, South. Dist. New York.]

JOHN A. SHIELDS,
Clerk of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

The foregoing writ is hereby allowed.

ADDISON BROWN.

UNITED STATES OF AMERICA, *Southern District of New York,* } *ss:*

I, John A. Shields, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, by virtue of the foregoing writ of error and in obedience thereto, do hereby certify that the following pages, numbered from 4 to 56, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the cause of William R. Hall, plaintiff in error, *vs.* The United States of America, defendant in error, as the same remain of record and on file in said office.

Seal of U. S. Circuit Court, South. Dist. New York.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 23rd day of February, in the year of our Lord one thousand eight hundred and ninety-seven, and of the Independence of the United States the one hundred and twenty-first.

JOHN A. SHIELDS, *Clerk.*

3 [Endorsed:] E. & A. B. 1471. The U. S. circuit court of appeals for the second circuit. William R. Hall, plaintiff in error, *vs.* The United States of America, defendant in error. Writ of error. Arthur C. Butts, attorney for plaintiff in error, 206 Broadway, N. Y. city. To John A. Shields, Esq., clerk U. S. cir. court: Copy of the within writ received this day. Dec. 29, 1896. Wallace Macfarlane, U. S. attorney. 145, pd. U. S. circuit court. Filed Dec. 29, 1896. John A. Shields, clerk.

4 TUESDAY, *October* 13*th*, 1896.

The court meets pursuant to adjournment and is opened by proclamation.

Present: Hon. Charles L. Benedict, judge.

The grand jury come into court and, being called, they severally answer to their names.

They present to the court an indictment in the following-named cause:

THE UNITED STATES *vs.* WILLIAM R. HALL. } Sec. 5467. Embezzling Letter and Stealing Contents of Same.

WEDNESDAY, *October* 14*th*, 1896.

The court meets pursuant to law and is opened by proclamation.

Present: Hon. Charles L. Benedict, judge.

THE UNITED STATES *vs.* WILLIAM R. HALL.

On motion of U. S. attorney, ordered arraignment.

The defendant on being arraigned pleads not guilty to the indictment against him.

5 TUESDAY, *October* 20*th*, 1896.

The court meets pursuant to adjournment and is opened by proclamation.

Present: Hon. Addison Brown, judge.

THE UNITED STATES *vs.* WILLIAM R. HALL. } Sec. 5467.

On motion of U. S. attorney, ordered trial; defendant present

Jurors Sworn.

Richard T. Davies.
William A. Marble.
Alexander Cameron.
Albert Arnstein.
Charles Tatham.
Seth W. Johnson.
Cyrus L. Sulzberger.
Richard Butler.
E. Bancker Smedes.
Archibald A. Watson.
Alexander Guiteman.
James H. Duffie.

Mr. Jason Hinman, ass't U. S. attorney, opens cause in behalf of prosecution.

(Trial suspended to 21st inst. at 11 o'clock a. m.)

WEDNESDAY, *October* 21*st*, 1896.

The court meets pursuant to adjournment and is opened by proclamation.

Present: Hon. Addison Brown, judge.

6 THE UNITED STATES
vs.
WILLIAM R. HALL.

The trial of the above cause being resumed this day pursuant to adjournment, the defendant present:

Evidence in Behalf of Prosecution.

Joseph E. Jacobs sworn.
Henry Baer, "
Jacob Weil, "

Mr. Arthur Butts, attorney for defendant, moves that the court direct jury to render a verdict of acquittal, and is heard in support thereof.

Motion denied, with leave to renew same on motion in arrest of judgment, should defendant be convicted.

Summing up of cause by defendant's attorney waived.

Mr. Jason Hinman, assistant U. S. attorney, sums up cause in behalf of prosecution.

Charge is thereupon given by the court to the jury, who retire in charge of an officer duly qualified to attend them, and on their return they say that they find the defendant guilty of the charges in the indictment contained, and so say they all.

Ordered that the prisoner be remanded for sentence.

Motion by def't's attorney for leave to make motion for new trial and in arrest of judgment granted.

7 TUESDAY, *November 24th*, 1896.

The court meets and is opened by proclamation.

Present: Hon. Addison Brown, judge.

THE UNITED STATES
vs.
WILLIAM R. HALL.

On motion of U. S. attorney, ordered sentence.

The court thereupon proceeds to pass judgment and sentence the prisoner, William R. Hall, to two (2) years' imprisonment at hard labor; sentence to be executed at Kings County penitentiary.

8 Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, begun and held in the city of New York, within and for the district and circuit aforesaid, on the third Wednesday of June, in the year of our Lord one thousand eight hundred and ninety-six, and continued by adjournment to and including the thirteenth day of October, in the year of our Lord one thousand eight hundred and ninety-six.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The jurors of the United States of America within and for the district and circuit aforesaid on their oath present that William R. Hall, late of the city and county of New York, in the district and circuit aforesaid, yeoman, heretofore, to wit, on the seventh day of September, in the year of our Lord one thousand eight hundred and ninety-six, at the southern district of New York and within the jurisdiction of this court, being then and there employed in a department of the postal service of the United States, to wit, as a clerk at Station F, a branch post-office of the United States in the said city of New York, did unlawfully and willfully secrete, embezzle, and destroy a certain letter directed and addressed in words and figures as follows, to wit:

9 "Mrs. SUSAN METCALF,
No. 346 E. 24th St.,
New York City, N. Y."

which said letter had been entrusted to the said William R. Hall, and had come into his possession in his capacity as such clerk and by virtue of his said office and employment, and was intended to be delivered by a letter-carrier, and the said letter then contained articles of value—that is to say, three silver certificates of the United States, each of the denomination and value of one dollar, and one United States Treasury note of the denomination and value of one dollar—against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

10 *Second Count.*

And the jurors aforesaid on their oath aforesaid do further present that William R. Hall, late of the city and county of New York, in the district and circuit aforesaid, yeoman, heretofore, to wit, on the seventh day of September, in the year of our Lord one thousand eight hundred and ninety-six, at the southern district of New York and within the jurisdiction of this court, being then and there employed in a department of the postal service of the United States, to wit, as a clerk at Station F, a branch post-office of the United States in the said city of New York, did unlawfully and willfully secrete, embezzle, and destroy a certain letter directed in words and figures of the tenor following—that is to say:

"Mrs. Susan Metcalf,
No. 346 *E. 24th St.*,
New York City, N. Y."

and the said letter was of the tenor following, to wit:

"Linwood, O., *Sept.* 7, 1896.

"My Dear Sue: I have had a hard time on the road since I last wrote you. Business seems to be horribly dull and I have made very few sales. I am of the opinion that after the election has been decided, one way or the other, that times will change for the better. You ask for $10.00 in your letter of the 6th, but I am only able to send you four ($4.00). Am in hopes that I can send you some more on Sunday. Take good care of yourself, and should P. J. call, give him my kindest regards. Hoping to see you about the 26th, believe me,

Lovingly yours, PAUL R. CLIFFORD."

11 "Address your next letter c. o. Burnett house, Cincinnati, O."

and the said letter had then been intrusted to the said William R. Hall, and had come into his possession by virtue of his said office and employment, and was intended to be delivered by a letter-carrier, and the same letter then contained articles of value—that is to say, a silver certificate of the United States of the denomination and value of one dollar, series of 1891, serial number E 59971991 ∈; also a certain other silver certificate of the same series and of like denomination and value, bearing serial number E 52045212 ∈; also a certain other silver certificate of the same series and of like denomination and value, bearing said serial number E 55220600 ∈; also a United States Treasury note of the series of 1891, of the denomination and value of one dollar, and bearing the said number B 29696568 ★, the said silver certificate and Treasury note being of the obligations and securities of the United States—against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

12 *Third Count.*

And the jurors aforesaid on their oath aforesaid do further present that William R. Hall, late of the city and county of New York, in the district and circuit aforesaid, yeoman, heretofore, to wit, on the seventh day of September, in the year of our Lord one thousand eight hundred and ninety-six, at the southern district of New York and within the jurisdiction of this court, being then and there employed in a department of the postal service of the United States, to wit, as a clerk at Station F, a branch post-office of the United States in the said city of New York, did unlawfully, willfully, and feloniously steal, take, and carry away a certain United States Treasury note of the denomination and value of one dollar and three several silver certificates of the United States, each of the denomination and value of one dollar, the said Treasury note and the said silver certificates then and there being the money and property of one Joseph E. Jacobs, and the same Treasury note and the same silver certificate- were then and there feloniously stolen and taken, as aforesaid, by the said William R. Hall from and out of a certain letter which then and there had come into his possession in his capacity as such clerk, as aforesaid, and by virtue of his said office and employment, and the said letter was directed in the tenor following—that is to say:

"Mrs. SUSAN METCALF,
No. 346 E. 24th St.,
New York City, N. Y."

and the same was then intended to be delivered by a letter-
13 carrier and had not then been delivered to the party to whom the same was directed, against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

WALLACE MACFARLANE,
U. S. Attorney.

(Endorsed:) U. S. circuit court. The United States of America *vs.* William R. Hall. Indictment. Embezzling letter & stealing contents of the same. U. S. Rev. Stat., sec. 5467. Wallace Macfarlane, U. S. district attorney. A true bill. H. C. Fahnstock, foreman. Filed in open court the 13th Oct., 1896. Oct. 14, 1896, the defendant arraigned and indct. read. Def't pleads not guilty, with l., etc., for 19th. October 21, 1896, the defendant tried; verdict, guilty. James R. Angel, A. C. Butts, att'ys for def't. Motion in arrest of judgment and for new trial argued. Filed decision, Brown, J., denying motion. Nov. 24, 1896, sentenced to two (2) years imprisonment at hard labor. Sentence to be executed at Kings County p't'y and stay of ex'n granted for 20 days, etc. (See order on file.) Motion denied Nov. 11, '96. A. Brown. U. S. circuit court. Filed Oct. 13, 1896. John A. Shields, clerk.

14 United States Circuit Court, Southern District of New York.

UNITED STATES
vs.
WILLIAM R. HALL. } Criminal Term.

Motion in Arrest of Judgment and for a New Trial.

Wallace Macfarlane, U. S. district attorney, and Jason Hinman, assistant U. S. att'y, for Government; James R. Angel and Arthur C. Butts, for defendant.

BROWN, *J.:*

A motion is made in arrest of judgment and for a new trial after a verdict of guilty found upon trial of the defendant on an indictment containing three counts, under section 5467 of the Revised Statutes, for embezzling a letter from the mail and stealing its contents.

The evidence showed that the Government detectives prepared a special-delivery letter, designed as a test or decoy letter, containing marked bills, and delivered it, bearing a special-delivery stamp, to the night clerk in charge of branch Station F of the post-office in this city. The defendant was not a letter-carrier, but a clerk employed at that office, whose duty it was to take charge of special-delivery letters, enter them in a book kept for that purpose, and then place them in course of transmission. The letter in question was addressed to Mrs. Susan Metcalf, a fictitious person, 346 E.
15 24th street, New York city, fictitious number. The letter was placed by the night clerk with other letters upon the table where such letters were usually placed, and the defendant, entering the office not long after, took this letter, along with the others on the same table, removed them to his desk, and properly entered the other letters, but did not enter this letter. On leaving the office not long after, the omission to enter the letter having been observed, he was arrested, and the money contents of the letter, marked and identified by the officers, were found upon his person. The officers testified upon cross-examination that the address was a fictitious one; that the letter was designed as a test letter, and that they "did not intend that the letter should be delivered to Mrs. Susan Metcalf or to that address," and that "it could not be delivered to that person at that address."

1. The first two counts of the indictment are under the first part of sec. 5467, and after describing the letter they aver that the letter had been entrusted to the defendant and had come into his possession in his capacity as clerk employed in the postal service and by virtue of his office and employment, and that the letter was intended to be delivered by a letter-carrier." The third count was based upon the last clause of sec. 5467, and averred that the defendant feloniously stole the contents of said letter (describing it), and that the letter "was intended to be delivered by a letter-carrier and had not been delivered to the party to whom the same was directed."

In neither of the counts is there any other averment with
16 regard to any intended conveyance of the letter by mail. At the close of the Government's case the counsel for the prisoner moved that a verdict of acquit-al be entered on the ground that the offence was not proved as laid in the indictment. The motion was denied, with leave to renew in case of a verdict of guilty, by motion in arrest of judgment, and new trial.

If it was essential for the Government to prove that the letter in question "was intended to be delivered by a letter-carrier" in order to entitle it to a conviction on one of the three counts, the motion should be granted, both because there was not sufficient evidence to support that averment and because the case was submitted to the jury without proper instructions on that subject, provided a finding of the jury on that point was material. There is certainly grave doubt upon the evidence whether the letter was in any event designed to leave Station F—that is, whether it was not intended to be intercepted before it left Station F or came into the hands of any letter-carrier, had it been properly entered by the defendant in the book of special deliveries. In the two counts under the first part of sec. 5467 it is necessary, as held in the Supreme Court in the case of U. S. *vs.* Goode, 159 U. S., 665, 668, to aver that the letter was intended (*a*) to be conveyed by mail or (*b*) carried or delivered by any mail-carrier, * * * letter-carrier, or other person, and so on, or (*c*) forwarded through or delivered from any post-office or branch post-office, &c. If some one of these circumstances be
17 necessary to be averred, then there must be either direct or circumstantial evidence from which the jury can find or rightly infer this intent, except in so far as the necessary evidence is supplied by the following section. Section 5468 declares that a deposit in the post-office or branch post-office is evidence that the letter was "intended to be conveyed by mail." It does not, however, declare that this shall be evidence that it was to be delivered by a letter-carrier or forwarded, &c. Evidently it could not do so, for thousands of letters are deposited for delivery to the persons addressed who have boxes rented to them in the same post-office building, in which cases there is no delivery by letter-carrier and no forwarding and none is intended. In all such cases there is, however, a "conveyance by mail," a condition sufficiently satisfied by any handling of a deposited letter by the postal authorities or any use of any part of the machinery of the post-office in putting the letter in course of transmission, though the letter may not go out of the building or out of the room in which it is deposited.

This indictment, however, is not framed upon the "conveying" clause of sec. 5467, but upon the averment that the letter was "intended to be delivered by a letter-carrier." As the Government chose this as one of the several necessary averments in the first two counts drawn upon the first part of sec. 5467, I think it is bound by the particular clause on which those indictments are drawn, and that the verdict cannot stand upon those counts.

2. The last clause of sec. 5467, upon which the third count
18 is framed, does not require either of the above-named averments. That clause declares that "any such person" (that

is, any such post-office employé) "who shall steal any of the things aforesaid" (that is, the contents) "out of any letter" (not any such letter), "package, bag, or mail of letters which have come into his possession, either in the regular course of his official duties or in any other manner whatever, and provided the same shall not have been delivered to the party to whom it is directed," shall be punishable, &c.

No doubt the letter referred to must be one intended to be "conveyed by mail" within the sense of those words as above defined (U. S. *vs.* Wight, 38 Fed., 106, 108), and such was the intent in this case, for the letter deposited was intended to come, as it did come, officially into the hands of the defendant and to be put in course of transmission according to its address. To that extent the evidence clearly goes, and no averments beyond that are necessary except such as the indictment contains. The averment of the third count that this letter was "intended to be delivered by a letter-carrier" is surplusage. Such an intent is not one of the ingredients or conditions of the statutory offense. It has no bearing on the defendant's acts, and it has no more connection with the offence described than any other private intention or private motive of the writer of the letter could have had. It seems to me, therefore, to be immaterial and surplusage. In some cases unnecessary averments in regard to the description of the article stolen have been held to
19 constitute a fatal variance when the proof contradicted the particulars averred, because the particular description was a part of the identity of the article. I do not think the averment in the present case can fairly be said to be of that character. In the case of Montgomery *vs.* The United States the indictments were very similar. In the third count the averment was that the letter was "to be conveyed by mail and to be delivered to the persons addressed." The proofs showed that it was the intention of the Government officers who deposited the letters to withdraw them from the mails in case they were not stolen before they reached the persons addressed. It was held that there was no variance, and the exception taken on the ground of a fatal variance was overruled. Whatever doubts might otherwise be entertained, I think that case requires me to overrule the present motion as respects the last count in this indictment, and as the transaction was a single transaction the third count is sufficient to sustain the verdict, and the motion is therefore overruled.

Dated New York, November 11, 1896.

A. B.

(Endorsed:) Circuit court of the United States for the southern district of New York. United States *vs.* William R. Hall. Opinion, Brown, J. U. S. circuit court. Filed Nov. 11, 1896. John A. Shields, clerk.

20 At a stated term of the U. S. circuit court of the United States for the southern district of New York, appointed exclusively for the transaction of criminal business, held in the U. S.

court-house, in the city of New York, on the 11th day of November, 1896.

Present: The Hon. Addison Brown, U. S. district judge.

THE UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

The motions for a new trial and in arrest of judgment herein coming on to be heard, after hearing Arthur C. Butts, Esq., and James R. Angell, Esq., in favor of said motions, and Jason Hinman, Esq., assistant U. S. attorney, opposed, due deliberation being had, it is—

Ordered that the motions be, and they are hereby, denied as to the verdict on the third count, and that sentence be passed on the verdict on the third count.

Nov. 17th, 1896.

ADDISON BROWN.

(Endorsed:) U. S. circuit court, southern district of New York. United States *versus* Wm. R. Hall. Order denying motions, &c. Wallace Macfarlane, United States attorney, attorney for plaintiff. Filed in court Nov. 17, 1896.

21 At a stated term of the circuit court of the United States for the southern district of New York held at the United States *and* post-office building, in the city of New York, on the 24th day of November, 1896.

Present: Hon. Addison Brown, judge.

THE UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

Upon all the proceedings had and on the annexed consent and the stipulation of the United States district attorney it is—

Ordered that the defendant's time to settle his bill of exceptions herein be extended twenty (20) days from the date of this order, said bill of exceptions to be entered *nunc pro tunc* as of November 24th, 1896.

ADDISON BROWN.

22 United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

It is hereby consented and stipulated that the defendant's time to settle his bill of exceptions herein be extended twenty days from

the date hereof, said bill of exceptions to be settled *nunc pro tunc* as of November 24th, 1896.

Dated November 24th, 1896.

WALLACE MACFARLANE, *U. S. Att'y.*

(Endorsed:) United States circuit court. William R. Hall, appellant, against United States of America, appellee. Consent and order to extend time filing bill of exceptions. Arthur C. Butts, attorney for appellant, 206 Broadway, New York city. Filed in court Nov. 24, 1896.

23 United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA
against
WILLIAM R. HALL.

Defendant's Bill of Exceptions.

The above-named defendant was indicted at a term of the United States circuit court for the southern district of New York in October, 1896, for a violation of section 5467 of the Revised Statutes of the United States.

The said indictment appears in full in the record hereof.

The defendant was arraigned on the 14th day of ——, 1896, and plead not guilty.

And afterwards, to wit, on the 20th day of November, 1896, the issue on said indictment on defendant's plea of not guilty came on to be tried before the Honorable Addison Brown, U. S. judge, and a jury.

The United States was represented by Jason Hinman, Esq., assistant United States district attorney, and William S. Ball, assistant United States attorney; and the defendant was represented by James R. Angel, attorney, and Arthur C. Butts, of counsel.

To maintain the issue upon the part of the United States the prosecution called several witnesses, who testified as follows:

24 JOSEPH E. JACOBS sworn and examined as a witness for the Government.

Direct examination by Mr. HINMAN:

I am a post-office inspector. I know the defendant Hall. He is a clerk in the Station F, at the branch post-office, New York city; regularly employed. I found him on duty in Station F. He was a clerk in the office. His duties were to keep count of special-delivery letters and the time book of carriers. Special-delivery letters passed through his hands and he made an account of them. He was arrested September 10th, 1896. On the evening of September 9th, 7.17 p. m., two special-delivery letters were prepared by Chief Clerk Dillon and myself. I knew the chief clerk, Mr. Dillon, of the inspector's office. One of the letters was addressed to Mrs. Susan

Metcalf, 346 East 24th street, New York city, New York, and contained four one-dollar bills; also a letter. The letter was prepared by Mr. Dillon. The envelope was addressed by Mr. Dillon. The letter was prepared in my presence. One other letter was prepared, and it was addressed to Miss Hulda Nansen, 442 East 35th street, New York. Both of these letters were test-letters, for the purpose of ascertaining whether letters were going astray through that station. At 20 minutes past four on the morning of the 10th of September I gave them to Mr. Baer in the presence of Mr. Dillon. We went to the station together and told him to put those letters with the other special-delivery letters that had come in. Station F is at
25 28th street and Third avenue. Baer took the letters, with ten or eleven other special-delivery letters in the bundle which he had there. After that, about 7 o'clock, before the defendant was arrested, we went up to Mr. Weil's house, 115th street. Weil is the chief clerk at Station F. We waited there until he came out—until 6.30. We waited opposite his house and came down the elevated railroad together and gave him a memorandum of the letters and told him to look out for them and see if they were entered by Mr. Hall. Special-delivery letters should be entered in a book. There is a general book for that purpose called the "special-delivery book." It is required that the special-delivery letters should be entered in the book known as the "special-delivery book" by defendant. After 6.30 I gave instructions to Mr. Weil. After we ascertained that this letter had not been entered, then we arrested Hall. We found him sitting on the railing in front of Station F at about twenty-five minutes after seven on the morning of September 10th. I asked him where he had been during his lunch hour or his breakfast hour. He said he had been at a liquor store on the corner of 29th street, and I brought him over there, and I requested the bartender to give me two one-dollar bills for the two-dollar bill that I had. He gave me a paper dollar and a silver dollar. I arrested Hall about 7.25 in the morning. I gave the letter to Mr. Baer at 4.20 o'clock in the presence of Mr. Dillon. The conversation that I am now detailing was in the presence of the defendant. Then Hall said he had been to another bar-
26 room. I think he said it was in Lexington or Fourth avenue. He wanted to know if I wanted to go there, and I said no. We took the Fourth Avenue car down to the post-office. We asked Mr. Hall to put out what money he had in his pocket. He took from his vest pocket $13—one five-dollar bill, one two-dollar bill, and six one-dollar bills. I asked him where he had received the one-dollar bill. He said that the day before at 1.30 he changed the five-dollar bill on the elevated-railroad station from the agent, 29th street and Third avenue, and that one dollar he had borrowed from his landlady the day before. I recognized some of those bills by marks we had put on the back of them. I have the bills here (producing them). These are the four one-dollar bills which I saw put in the letter prepared by Mr. Dillon, addressed to Mrs. Susan Metcalf. The mark is an ink dot in the figure one on the upper right-hand corner, back of each bill. These are the iden-

tical bills that were among the six bills that were taken from the defendant Hall's person. He took them out himself from his vest pocket, together with the other bills. They did not find the Metcalf letter anywhere. He turned out all of his pockets in room 109, 4th floor, of this building, in the office of the post-office inspector, but the letter did not appear. I did not make any search for it at Station F. I requested Mr. Weil, the chief clerk, to make a search for the letter and also search the record to see whether it had been entered as a special-delivery letter. That is all the inquiry I made.

The bills were offered and received in evidence and marked "Exhibits 1, 2, 3, and 4."

27 Cross-examination by Mr. BUTTS:

Hall was acting as clerk, having charge of special-delivery letters; that was one of his duties. In his absence I know generally that there was always some one there that entered the special-delivery letters. He was detailed specially for that one duty that day. No other person had charge of the special-delivery letters that morning. When Hall came to the office that morning we were up to 115th street waiting for Mr. Weil. Hall told me he reported for duty that morning at 5.20. At that time we were up in Harlem. Between 5.20 and 7.25 a. m., from what he stated to me, he had charge of the special-delivery letters. From my own knowledge, I do not know it. I only know that I asked him, and he stated that he had, but of my own knowledge I do not know it. That morning I gave two letters to Mr. Baer, the night clerk. I do not know what he did with them. Of my own knowledge, I do not know whether they ever went into the special-delivery bundle. This letter was one that was made up by Mr. Dillon in my presence, addressed to Mrs. Susan Metcalf. I did not know of any such person; did not know of any such address as 346 East 24th street, New York city, New York, of my own personal knowledge. I had no personal knowledge at that time that there was, in fact, no such address as 346 East 24th street. At the time I handed this letter to Weil I knew the name was fictitious, and that there was no such person as Mrs. Susan Metcalf living at the address No. 346 East 24th street. I knew that
28 that letter could not be delivered to that person at that address.

EDMOND M. DILLON sworn and examined as a witness on behalf of the Government.

Direct examination by Mr. HINMAN:

I am chief clerk in the office of the post-office inspector. I know the defendant Hall. On the evening of the 9th of September last I prepared a test-letter for deposit in Station F, branch post-office, New York city. It was addressed to Mrs. Susan Metcalf. I forget the balance of the address. I have a copy of the letter. I put into the envelope besides the letter four one-dollar bills. The letter was mailed. I kept their numbers. The exhibits you show me—1, 2,

3, and 4—are the bills I put in the letter. I kept a copy of that letter that I enclosed in the envelope addressed to Mrs. Susan Metcalf. This is the copy.

Mr. BUTTS: I object to a copy of this letter being given in evidence on the ground there is no foundation laid for the evidence.

Objection overruled. Exception by defendant.

"LINWOOD, O., *September 7th*, '96.

MY DEAR SUE: I have had a hard time on the road since I last wrote you. Business seems to be horribly dull, and I have made very few sales. I am of the opinion that after the election has been decided one way or the other the times will change for the better.

You ask for $10 in your letter of the 6th, but I am only able
29 to send you four. Am in hopes that I can send you some more on Sunday. Take good care of yourself, and should P. J. call give him my kindest regards. Hoping to see you by the 26th, believe me,

Lovingly yours, PAUL R. CLIFFORD."

In this letter I enclosed the four bills. On the morning of the 10th of September Mr. Jacobs had this letter in his possession. I took it after I had reported it. I saw him give it to Night Clerk Baer in Station F about 4.20 in the morning. I saw Baer put the two of them in with some other letters that were on this desk. I do not know the special-delivery desk. There were other special-delivery letters there, and he put the two with the others. These letters bore special-delivery stamps in addition to the ordinary two-cent stamps. I saw nothing else in connection with the letters. We went outside and went up to see the chief clerk—up at Harlem, I think, 115th street—with Mr. Jacobs. We waited until the chief clerk came out of his house, and Mr. Jacobs went over and had a talk with him, and we all went down in the elevated car together. The chief clerk I saw get off at 28th street, and we went down to 23rd street and got off there and walked slowly back. The next thing, I should think it was somewheres around seven o'clock, the chief clerk came out of Station F. I was across at the station—the downtown station side—and I saw him come out of the office on

the other side of 28th street. I informed Mr. Jacobs. I gave
30 him some information and went back into the elevated station downstairs. Mr. Jacobs walked into the saloon on that corner, and about five minutes afterwards the chief clerk came out again and he motioned to me—Hall coming out of the door. Hall started up the street with two other letter-carriers. I went inside to inform Mr. Jacobs in the saloon, and when we got out Hall had disappeared. We walked up the street, but could not find him, so we decided to wait about there until he came back. We stayed there, I guess, about twenty minutes, and he came round the corner from 28th street and walked up and sat on the rail in front of the station. Mr. Jacobs walked up to him and said something and he started downtown—no, he went across into the saloon on the corner and came down there and took a Fourth Avenue car. I heard con-

versation in the saloon in presence of the defendant, between Jacobs and the bar-keeper. Jacobs asked the bar-keeper to give him two one-dollar bills for two dollars. I heard Jacobs ask Hall before this where he had been, and he said he had been over in that saloon on the corner. I then went down Fourth avenue to the post-office, went upstairs in room 109, and Mr. Jacobs asked Hall questions. I saw Hall turn the bills out of his vest pocket; they were wrapped up with the other bills; among the bills he turned out were these four bills which I identified. The amount of money he turned out was $13—one was a five-dollar bill, one a two, and six ones. Hall said that he had the five-dollar bill and the two-dollar bill since last pay in August; that five of the one-dollar bills he got in exchange for a five-dollar bill the afternoon before at the
31 elevated station, 3rd avenue and 28th street. He said that other bill he had borrowed from his landlady that morning or the night before. Those bills were the property of Mr. Jacobs.

Cross-examination by Mr. BUTTS:

I did not know about any person by the name of Metcalf living at 324 East 24th street. The name was fictitious; as far as I know, there was no such person in existence; that is correct. Of my personal knowledge, I do not know that there was any such number as 346 East 24th street; of course, I did not intend that the letter should be delivered to Mrs. Susan Metcalf at that address.

HENRY BAER sworn and examined as a witness on behalf of the Government.

Direct examination by Mr. HINMAN:

I am a clerk in the post-office at Station F, 28th street and Third avenue, and was on the 9th and 10th of September last. I know the defendant Hall. He was a clerk there with me. I have been a clerk there about two years. Hall and I were working there together as clerks for two years. Hall had charge of the special-delivery letters. I saw Mr. Jacobs on the morning of the 10th of September. I was the night clerk there at that time. I saw Mr. Dillon there to-. At 4.20 they gave me two letters; I noticed them particularly; noticed the addresses on them. One was addressed to a person named Mansen, in East 35th street, and the other to Mrs. Susan Metcalf, in East 24th street; they were special-delivery
32 letters. I mixed these two letters with nine others on the special-delivery-letter clerk's desk. I mixed them up and put them on the special-delivery desk, where the special-delivery clerk was in the habit of getting the letters. I first saw Hall at 5.20 a. m. I saw him when he first came to the office at 5.20. He took that batch of letters from the desk in which these two letters were included. I did not see what he did with them.

Cross-examination by Mr. BUTTS:

Hall came there at 5.20. I went off at 7.15. These nine letters or the special-delivery letters were put on a desk. Hall had a desk

of his own. They were not put on Hall's desk. They were not put on Hall's desk because I have to watch them. I had charge of them until Hall came into the office. I had no particular desk. The desk where these letters were placed was about ten feet away from Hall's desk—in the same room. I did not hand the letters to Hall. Nobody else was in the office at the time. I was separating letters. Hall's desk was about four feet from where I was standing separating letters and about four feet from where the special-delivery letters were put by me. Hall's desk was further from me than the desk where I put the letters. Hall's desk was about six feet away from me and the other was four feet. The reason I placed the letters on the desk I did was because it was nearest to me. These desks were behind the window, where the post-office was separated from the general public—all barred off by partitions. I mean
33 to tell the court and jury that the reason I placed those letters on that desk was so that I could watch them. I had no other reason. I had been a clerk in the department four years; Hall about two years. I had been night clerk for fifteen days—from the 1st to the fifteenth of September. I had been night clerk about ten days when Hall was arrested. It had always been my custom instead of placing the special-delivery letters upon Hall's desk to place them on the desk I did that night. About an hour and forty-five minutes after Hall came I went off duty. After Hall came I remained in the office about an hour and twenty-five minutes. I never called Hall's attention to these letters when he came in first. He took them. I saw him take them. I had always placed them there prior to that time. He said nothing to me about them, not a word; never had said anything to me about these special-delivery letters. I had never told him where they *they* could be found. I mean to say that without telling him anything about them he could go and place his hands upon the special-delivery letters that I had placed upon the desk; that was his usual practice. The usual daily practice was that he would take the letters without being told. I had never been special-delivery clerk, and had no charge of the duties of the special-delivery clerk. My work was general work. I knew something about special-delivery letters—where they were kept—before I came on duty as clerk. I knew they had always been kept in that one place. The desk where they were kept was an open desk. It was nobody's desk. It was a general desk. No other letters were kept there. It was a desk that was
34 devoted particularly to special-delivery letters. The desk was about three feet long; about three feet high; had two drawers; was an open-top desk; not covered; no pigeon-holes. The whole desk was devoted specially to special-delivery letters. On that day there were nine special-delivery letters. I can't state on what particular part of the desk I placed these letters. I did not place them in a pigeon-hole. I placed them on the top of the desk; that had always been my custom. There was nothing else in the desk; never had been, so far as I know. During all my service there as clerk that desk had been devoted to that purpose. I never examined the drawers to see whether there was anything inside

or not. I think there was something inside some time. I have seen some of the clerks sitting at the desk; they were doing nothing; don't remember how often. It was not a general custom to see clerks sitting at that particular desk doing nothing. No other clerk came there that morning before Hall; he was the first one there. After he came in, he and I were all alone. He took up the special-delivery letters about five minutes after he came. After that he took them away from that desk and put them on his own, we suppose. He took the letters, but I do not know what he did with them. I did not see him doing anything with them, but I saw him take them. After I saw him take them, I did not see him do anything. I did not see whether he went out of the post-office or stayed in. He was there with me all that time until about
35 seven o'clock—until I left at 7.15. Hall went out at seven o'clock. Up to that time I do not know where he was or what he had been doing, except that he was there in the office. I did not see him making any entries in any book. I was separating letters. I did not face Hall's desk. I was not paying any attention to Hall. My back was not to Hall's desk. There is a case between his desk and where I was; one of these pigeon-hole cases where you can see through. I know nothing about what happened after Hall came in. I wanted to see him while he was at work at his desk. There was nothing to prevent my seeing. I did not go out of the office until 7.15. Hall went out at seven. Hall did not come back before I went out. When I went out there were two other clerks in the office; they came at 5.30. Before that there were no other persons in the office but Hall and myself. Other clerks came in at 5.30—about six or seven. They worked in the same room; some of them stayed until I went out. They were all doing post-office work—separating letters same as myself. All the other clerks reported at 5.30. I swear that between 5.20, when Hall arrived, and before all the other clerks had arrived there at 5.30, that Hall had taken this package of special-delivery letters from that desk. I saw him. The letters on that special-delivery desk were not in a package, but were loosely thrown. I say that he took up those special-delivery letters prior to the other clerks arriving before half past five. I was aware that these two letters had been specially prepared as test-letters and were in that package. Mr. Jacobs told me so. He handed me those letters specially. He did not
36 request me to make any note of them, only to look at the addresses, which I did. I know of my own knowledge that there were special-delivery stamps on those letters; I knew them to be decoy or test letters; Mr. Jacobs told me they were. I kept my eye on them until they were in Hall's hands. I left the office about 7.15 o'clock, and I did not ascertain at that time whether these two letters were there or had been abstracted. I had no orders to find out whether these letters were taken or not. I do not know whether it would have been possible while I was there with Hall for him to have extracted anything from those letters without attracting my attention or without my seeing him. The pigeon-hole box, which stood between me and Mr. Hall, did not have a glass back. I did

not watch Hall after I saw him take the letters. I saw the letters after I placed them on the special-delivery desk, but not on his desk; I put them there myself; I saw them there five minutes before Hall came in; I looked specially to see that they were there; my attention was only called to these two letters; I had never seen those two letters since; I searched for them in the office.

JACOB WEIL sworn and examined as a witness on behalf of the Government.

Direct examination by Mr. HINMAN:

I live at 218 East 115th St.; I am chief clerk in Station F, branch post-office, 28th street and 3rd avenue. I know the defend-
37 ant Hall; I know the last witness on the stand. I was on duty the morning of the 10th of September; went on duty about 5.50—between 5.50 and 5.55 a. m. I found Hall there and Baer and the ordinary force. I went to the office between 5.50 and 5.55 a. m. I noticed what Hall was doing; he was writing up special-delivery letters; that was one of his regular duties. I know his handwriting; I have often seen him write—couple of hundred times. I knew at that time of test-letters being there. Hall went away at seven o'clock to breakfast. I examined the special-delivery book. I knew how these letters were addressed. One was to Miss Nansen in 35th street, and the other to Mrs. Susan Metcalf in 24th street. I have the special-delivery book here in my possession. I examined the special-delivery book with reference to these letters three or four minutes after Hall vacated his seat at the desk and went out. The entries on this page at the bottom, under the red line, are partly in Hall's handwriting. I find the entry there of one of these letters in Hall's handwriting. The letter directed to Miss H. Nansen, at 442 East 35th street, that entry is in Hall's handwriting. The letter addressed to Mrs. Susan Metcalf is not there. The first entry is in the book. The reason that entry happens to be made there at that hour instead of the correct hour is that there was a 3.30 backer used for that; that was the stamp, I understand; that was there when Mr. Jacobs entered the office. That entry simply meant that that entry was taken from the backer stamp and was backed with the backer stamp that is changed once an hour. The entry there is Hall's handwriting.

38 Offered and received in evidence and marked "U. S. Exhibit 5."

There are ten entries in all in Hall's handwriting on that page.

I will read the entry, which is as follows: "Under number of letter 1, Nansen, Miss. H., 442 East 35th street, N. Y. city, 3.30." The hours of the other entries are running from 3.30; second is 3.30; third entry is 11.30; the fourth entry is one 6, 6.30, 6, 7.30, 7.30. I think that is all. I find no entry of the Metcalf letter there. I made a search to find that letter. I looked around the special-delivery desk and looked through the record of the book and I could not find it; it was not in the special-delivery desk—no indication of it.

Cross-examination by Mr. BUTTS:

We have an office stamp which indicates the time of the receipt of letters; we call it a backer's stamp; when stamped upon a letter that indicates the hour the letter was received; it depends upon what part of the day it is as to how often we change that stamp. Between four in the morning and seven o'clock in the morning we would have the stamps 6.30, 7, and so on. From four o'clock on the backer stamp is changed, 5.30 and 6. Letters received at 4 a. m. ought to have the 5.30 stamp. Letters delivered between four and five o'clock ought to have the same stamp, but I do not believe we receive any mail between those hours; therefore we change between 5.30 and 6 when we receive the mail; that is the cause of not having an hour for stamping. We do not have a half-hour stamp
39 at 4.30, because we receive no mail. We change the stamp usually about the time of receiving the first mail at about 3.30, so that this record as it appears, 3.30, shows that the letters stamped were received between 4 and 5 o'clock; that was the way business was done at that office. I am, as I have said, the chief clerk. The backer's stamp is put on the letter to indicate time of its being received; we strive to be reasonably correct—within a half hour or so. There is a 1 o'clock, 1.30, a 2.30 and a 3.30 stamp at night. After 3.30 the next stamp is 5.30, 6, and so on, and then half hourly through the day. Any letters received between those hours are stamped 3.30, but we do not receive any ordinary mail between 3.30 and 5.30. We ordinarily receive mail all through the night, but we have no use for the backer's stamp. We have a face stamp changed every half hour; the facing stamp is an oblong stamp with the date. We do not put the backer stamp on those letters because we do not receive any, but if we do we use a 3.30 on them. I do not mean to say that a letter received at one o'clock would have the stamp of 3.30; it would have the stamp of 1.30. All letters received at 3.30 o'clock until 5 o'clock retain the 3.30 stamp, but we have no use for a backer because we receive no mail. We did this day, but it was a special occasion. Of the ten names upon this entry of September 10th I show you those in the handwriting of Hall and identify his handwriting as follows: Mrs. H. Nansen, Miss W. R. H. Martens, A. Gurring, F. H. Pierce, Miss L.
40 Clock, Mrs. I. M. Stewart, or Snoot I make it; Hon. M. A. Hanna, Dr. E. H. Peasley, G. M. Lane, Mrs. G. M. Worn. The red line indicates (which was drawn by Mr. Hall through the middle of the page) that all before that line was sent out the day before, before 11 o'clock, the hour of closing and receiving special-delivery letters. Anything received after that hour is held over until the next morning; you will find that red line every day.

HENRY BAER recalled and examined by Mr. Butts:

I know a man by the name of Murray. Murray was not in the office that morning on the night of September 10th before Hall came. When Hall came Murray might have been downstairs. I will not swear, because I don't know, that Murray was downstairs in the toilet-room, and that he had come in and reported for business.

I don't know. He was not in the office before Hall; I am positive of that; he might have been upstairs; if he went downstairs he had to go through the office; he could have gone downstairs without my seeing him; he could have gone down without my seeing him, but ordinarily I would see him; but I say that he had not been there before Hall.

Evidence closed.

The Government rests.

Counsel for defendant then asked the court to direct the jury to acquit the defendant upon the following grounds:

First. That all the evidence submitted by the Government fails to prove the crime charged in the indictment against the
41 defendant, and the court should direct the jury to acquit the defendant.

Second. A material allegation to be proved by the Government was the fact that the letter described in the indictment alleged to have been secreted, destroyed, or embezzled and its contents stolen by the defendant was intended to be delivered by a letter-carrier, while the testimony of the witnesses for the Government, Jacobs and Dillon, proves that such letter was not intended to be delivered by a letter-carrier. Wherefore a material allegation in the indictment is not only not proven, but absolutely disproved.

Third. Upon the testimony of the Government witnesses Dillon and Jacobs the defendant cannot be convicted of the crime charged in the indictment.

Fourth. Upon all the evidence submitted by the Government the defendant cannot be convicted of the crime charged in the indictment.

Fifth. There is a fatal variance between the indictment and the proofs offered to sustain it by the Government, and the defendant ought not therefore to be convicted and his motion to acquit should be granted.

Each of the foregoing motions to direct an acquittal of the defendant were denied by the court; to which refusals and each of them counsel for the defendant duly excepted.

42 The defendant rested, and the court proceeded to charge the jury as follows:

BROWN, *J.*:

The points that have been raised by the counsel for the defendant in his argument and requests to charge have reference to a technical point as regards the language of the indictment, which it is the province of the court alone to decide and which will be passed upon hereafter by the court. It is not a question which you have to do with, and therefore you will dismiss it entirely from your minds.

The general doctrine is that — is permissible and right under this statute that test-letters may be deposited for the purpose of ascertaining who takes them—that is, who is robbing the mails—and this has been repeatedly upheld by the courts. Therefore, in de-

termining the question now submitted to you I will say that if on this evidence you are satisfied beyond a reasonable doubt that the defendant took these bills which have been produced before you from the letter addressed to Mrs. Metcalfe, it is your duty to find a verdict of guilty. It is all summed up in just that one question: If you are satisfied beyond a reasonable doubt that the defendant took these four bills marked, numbered, and described to you from that letter, it is your duty to convict him. I say beyond a reasonable doubt, and by that I mean a doubt for which there is a solid foundation and reason—a doubt founded upon reason and common sense.

The question involves several different propositions: In the
43 first place, whether those bills were put in that letter. If you have a reasonable doubt about that, you ought not to convict him. Have you any reasonable doubt? Can you have any reasonable doubt?

Two officers have sworn that these bills were put into that letter. They state to you the marks and the numbers. The same two officers testified that the letter containing those bills, directed to Mrs. Metcalf, was deposited early that morning—the 10th of September—in Station F. Mr. Baer corroborates them by saying he saw the letter, with a special-delivery stamp, put with ten others that were in the office where such letters are usually placed. He was told what they were, and he knew that they were test letters. He testified that he watched them closely; that he saw this very letter there five minutes before the defendant came in. In about five minutes afterwards, before anybody else came into the office, the defendant took all the special-delivery letters that were there, eleven in all. He paid no further attention to them. He performed his duty, he said. That was all he was instructed to do. He placed no further watch upon his fellow-clerk than what he was ordered to do—to see where these letters went to. When he had done that he did not look any further.

Now, if you believe that testimony, then this letter came to defendant's hands, and these bills, if you believe the officers' testimony, are the same bills.

I should say that when the defendant was arrested, a short time afterwards, and brought down to this building he produced the same four bills. That is the evidence, gentlemen; that is the evidence.

If there is a reasonable doubt as to either part of this chain,
44 you will give the defendant the benefit of that doubt; if there is any reasonable doubt about it, it is your duty to acquit.

It is an important matter. It is not one to be dealt with lightly on either side. It is important to the defendant, and it is equally important to the Government, as representing the whole community. The Government has no interest of its own in carrying the mails; the Government does the work for the people. The people look to the Government, and rightly, to defend the mails against embezzlement and to use vigorous effects to detect who are the guilty persons. The Government has organized an important force, whose

duties it is to act diligently to discover guilty persons. These officers have no personal interest, so far as can be perceived, in prosecuting any particular person. It is their duty, it is their bounden obligation, to do all that they can to ferret out who is guilty in a case where complaint is made of money missing from any particular place. All they can do is to do that duty faithfully; to tell you every step that they have taken and bring that case to you.

The conclusion rests with the jury.

If the evidence presented by the prosecution is sufficient beyond a reasonable question, there must be no hesitancy in the jury to find accordingly.

DEFENDANT'S ATTORNEY: Your honor, I ask the court to charge the jury that, so far as the evidence of Baer is concerned here, that the record shows that there were not eleven letters, special-delivery letters, delivered to Hall. That is the evidence in this case—that the book shows that on the 9th and on the 10th two letters were delivered
marked 3.30; then follows date September 9th, 11.30. The
45 others are under date of September 10th and at a date later
than the time that Hall came there in the morning; so that the testimony of Baer cannot be relied upon, if this record is true, and I should like to have the jury take this book to show the exact entries on that date, as far as this entry is concerned. The point is that they were entered after he came there, when Baer says the eleven letters were there to be registered.

The COURT: There is no evidence as to the stamps that were on the letters themselves. These were entries of the defendant. The argument is that the letter to Metcalfe was not entered because the defendant took it. That is the case that the Government submits to the jury. He did not enter the letter because he took the letter and the bills, the Government says.

(The jury rendered a verdict of guilty, as charged in the indictment.)

A motion in arrest of judgment and for a new trial was then made and the argument thereon thereafter duly heard. The said motion was denied.

And forasmuch as none of the said matters and exceptions so offered and made to the rulings and directions of said judge do appear upon the records of said case, the counsel for defendant does tender this bill of exceptions and prays that the same be allowed.

Wherefore the said judge at the prayer of said counsel for
46 defendant approves and allows said bill of exceptions, and
certifies the same to contain all the evidence and a record of all the proceedings had upon the trial of this cause, and orders that the same be filed *nunc pro tunc* as of November 24th, 1896.

Dec. 16, 1896.

ADDISON BROWN, *U. S. D. J.*

Settlement consented to.

WALLACE MACFARLANE,
U. S. Attorney.

(Endorsed:) United States circuit court, southern district of New York. United States of America against William R. Hall. Defendant's bill of exceptions. Arthur C. Butts, of counsel for defendant, 206 Broadway, N. Y. city. U. S. circuit court. Filed Dec. 19, 1896. John A. Shields, clerk.

47 United States Circuit Court, Southern District of New York.

THE UNITED STATES
against
WILLIAM R. HALL.

Upon all the proceedings had herein and upon motion of James R. Angel, attorney for defendant, and Arthur C. Butts, Esq., of counsel for the defendant, it is—

Ordered that the execution of the sentence herein be stayed until December 26th, 1896; and it is further—

Ordered that the defendant may be enlarged on bail herein upon allowance of writ of error to the United States Supreme Court upon giving a recognizance in the sum of $3,500, and the clerk of this court is authorized to take such recognizance.

ADDISON BROWN.

Entry of within order is consented to.

WALLACE MACFARLANE, *U. S. Att'y.*

Dec. 19, 1896.

(Endorsed:) U. S. circuit court, so. dist. of New York. The United States *vs.* William R. Hall. Order suspending sentence and admitting defendant on bail. Arthur C. Butts, of counsel for def't, 206 B'way, N. Y. city. U. S. circuit court. Filed Dec. 19, 1896. John A. Shields, clerk.

48 United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

On all the proceedings in this cause, on motion of Arthur C. Butts, defendant's attorney, it is—

Ordered that all proceedings herein be, and the same hereby are, stayed until December 29th, 1896.

A. BROWN.

Entry of within order is consented to.

WALLACE MACFARLANE,
U. S. Attorney.

(Endorsed:) U. S. circuit court, southern dist. N. Y. United States of America *vs.* William R. Hall. Order staying execution sentence. Arthur C. Butts, def't's att'y, 206 Broadway, N. Y. city. U. S. circuit court. Filed Dec. 26, 1896. John A. Shields, clerk.

49 United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

Assignment of Errors.

The said William R. Hall, the defendant herein, on the 28th day of December, 1896, by Arthur C. Butts, of his counsel, makes the following assignment of errors in the record and proceedings of the above-entitled action:

First. The court erred in allowing the witness for the Government, Edmund H. Dillon, to give in evidence a copy of the letter written and addressed to Susan Metcalf at 346 East 24th street, N. Y. city, under objection of defendant's counsel, as contained in the settled bill of exceptions.

Second. The court erred in denying the motion of defendant's counsel to direct the jury to acquit the defendant, as contained in the settled bill of exceptions.

Third. The court erred in denying the motion of defendant's counsel to direct the jury to acquit the defendant upon the first, second, third, fourth, and fifth grounds of said motion, as contained in the bill of exceptions as settled.

50 Wherefore the said judgment of conviction should be reversed.

Dated December 28th, 1896.

ARTHUR C. BUTTS,
Of Counsel for Defendant.

(Endorsed:) United States circuit court, southern district of New York. United States of America *vs.* William R. Hall. Assignment of errors. Arthur C. Butts, of counsel for defendant, 206 Broadway, New York city. To John A. Shields, Esq., clerk U. S. cir. court. U. S. circuit court. Filed Dec. 28, 1896. John A. Shields, clerk.

51 Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.
} Bond for Damages and Costs.

Know all men by these presents that we, William R. Hall, as principal, and Elizabeth H. Birss, of 675 East 155th St., and Lindsay Williamson, of 1084 East 175th St., in the city, county, and State of New York, are held and firmly bound unto the above-named United States of America in the sum of two hundred and fifty dollars, to be paid to the said United States of America; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 26th day of December, in the year of our Lord one thousand eight hundred and ninety-six.

Whereas the above-named William R. Hall has prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment of conviction rendered in the above-entitled suit by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named William R. Hall shall prosecute said writ of
52 error to effect and answer all damages and costs if said William R. Hall fail to make said writ of error and plea good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

WILLIAM R. HALL. [SEAL.]
ELIZABETH H. BIRSS. [SEAL.]
LINDSAY WILLIAMSON. [SEAL.]

Sealed and delivered and taken and acknowledged this 26th day of Dec., 1896, before me—

JOHN A. SHIELDS,
U. S. Commissioner.

UNITED STATES OF AMERICA, *Southern District of New York,* } ss:

Elizabeth H. Birss and Lindsay Williamson, being duly sworn, doth depose and say that they are and that he and she is severally worth the sum of five hundred dollars over and above all his and her just debts and liabilities.

ELIZABETH H. BIRSS.
LINDSAY WILLIAMSON.

Sworn to this 26th day of Dec., A. D. 1896, before me—

JOHN A. SHIELDS,
U. S. Commissioner.

(Endorsed:) U. S. circuit court, southern district of New York. United States of America *vs.* William R. Hall. Bond for damages and costs on writ of error. Approved Dec. 26, '96. A. Brown. U. S. circuit court. Filed Dec. 26, 1896. John A. Shields, clerk.

53 At a stated term of the circuit court of the United States for the southern district of New York held at the United States *and* post-office building, in the city of New York, on the 29th day of December, 1896.

Present: Hon. Addison Brown, judge.

THE UNITED STATES OF AMERICA
vs.
WILLIAM R. HALL.

On the application of William R. Hall therefor and after hearing Arthur C. Butts, his counsel, it is—

Ordered that pending the writ of error herein to the Supreme

Court of the United States William R. Hall herein may be, and he hereby is, remanded to the custody of the marshal for the southern district of New York; that he be released on bail by giving a recognizance in such form as may hereafter be approved by the court in the sum of thirty-five hundred dollars to obey the mandate or direction of the court upon the entry of judgment upon the decision of the Supreme Court on said writ of error; and it is further—

Ordered that the said writ of error as allowed herein shall operate as a supersedeas, and that until the further order of this court on the mandate of the Supreme Court that all proceedings of this court be, and they are hereby, stayed.

ADDISON BROWN.

54 (Endorsed:) United States circuit court, southern district of New York. United States of America against William R. Hall. Supersedeas, etc. Arthur C. Butts, attorney for defendant, 206 Broadway, New York city. To John A. Shields, Esq., clerk, &c. Copy of the within supersedeas, etc., received this day. Wallace Macfarlane, U. S. attorney. Dec. 29, 1896. U. S. circuit court. Filed Dec. 29, 1896. John A. Shields, clerk.

55 The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the 27th day of January, 1897, pursuant to a writ of error filed in the clerk's office of the circuit court of the southern district of New York, wherein William R. Hall is plaintiff in error and you are defendant in error, to show cause, if any there be, why the conviction and sentence rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Given under my hand, at the city of New York, in the southern district of New York, this 29th day of December, in the year of our Lord one thousand eight hundred and ninety-six.

ADDISON BROWN,
U. S. Judge.

56 [Endorsed:] E. & A. B. 1471. United States circuit court, southern district of New York. The United States of America against William R. Hall. Citation. Arthur C. Butts, of counsel, 206 Broadway, New York city. To John A. Shields, Esq., cl'k cir. court, &c. Copy of the within citation received this day. Wallace Macfarlane, U. S. attorney. 10 p'd. U. S. circuit court. Filed Dec. 29, 1896. John A. Shields, clerk.

Endorsed on cover: Case No. 16,500. S. New York C. C. U. S. Term No., 312. William R. Hall, plaintiff in error, *vs.* The United States. Filed February 26th, 1897.